

Executive Summary – Enforcement Matter – Case No. 41746

City of Whitney

RN102688934

Docket No. 2011-0856-PWS-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Whitney, 105 Cleveland Avenue, Whitney, Hill County

Type of Operation:

Municipal public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: September 9, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,500

Amount Deferred for Expedited Settlement: \$500

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,000

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: \$49

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41746

City of Whitney

RN102688934

Docket No. 2011-0856-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 28, 2011

Date(s) of NOE(s): May 19, 2011

Violation Information

1. Failed to collect and submit raw water samples for microbiological analysis prior to placing existing wells that were reworked back into service [30 TEX. ADMIN. CODE § 290.41(c)(3)(F)(i)].
2. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day [30 TEX. ADMIN. CODE § 290.110(c)(4)(B)].
3. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data [30 TEX. ADMIN. CODE § 290.41(c)(3)(N)].
4. Failed to maintain copies of Facility records that are kept on file or stored electronically and made accessible for review during inspections [30 TEX. ADMIN. CODE §§ 290.46(f)(2) and 290.46(f)(3)(B)(vi)].
5. Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications [30 TEX. ADMIN. CODE § 290.44(h)(4)].
6. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists and failed to implement an internal cross-connection control program [30 TEX. ADMIN. CODE § 290.44(h)(1)(A) and (h)(1)(B)].
7. Failed to post a legible sign at the Facility's production, treatment and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted [30 TEX. ADMIN. CODE § 290.46(t)].
8. Failed to provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency [30 TEX. ADMIN. CODE § 290.42(e)(4)(A)].
9. Failed to provide adequate ventilation which includes high level and floor level screened vents for all enclosures in which chlorine gas is being stored or fed [30 TEX. ADMIN. CODE § 290.42(e)(4)(C)].

Executive Summary – Enforcement Matter – Case No. 41746

City of Whitney

RN102688934

Docket No. 2011-0856-PWS-E

10. Failed to provide all water storage tanks with a water level indicator located at the tank site [30 TEX. ADMIN. CODE § 290.43(c)(4)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of May 12, 2011:

- a. Provided the Facility's chlorine residual monitoring log for the month of April 2011 that showed the disinfectant residual was being monitored at representative locations in the distribution system at least once per day;
- b. Provided the backflow prevention assembly test report for the device located at the wastewater treatment plant;
- c. Posted a legible sign at the Facility's Railroad well site that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted;
- d. Installed high level vents for the chlorine enclosures at the North Plant and the Main Plant;
- e. Provided a small bottle of fresh ammonia solution that is readily accessible outside the chlorinator room;
- f. Installed a water level indicator for the elevated tank and ground storage tank at the North Plant; and
- g. Implement a protocol to ensure that all necessary raw water samples are collected and submitted prior to placing a reworked well back into service.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Provide an accurate flow measuring device for the Facility's Railroad well;
 - ii. Provide the backflow prevention assembly test report for the device located at Dr. Cofer Dental Clinic located at 1502 North Brazos Street in Whitney;
 - iii. Test the backflow prevention assembly device at the U Wash Car Wash and Lake Whitney Medical Center by a recognized backflow assembly tester and certify that the assemblies are operating within specifications; and

Executive Summary – Enforcement Matter – Case No. 41746

City of Whitney

RN102688934

Docket No. 2011-0856-PWS-E

- iv. Install a reduced pressure principle backflow prevention assembly or an air gap at the Whitney Veterinary Clinic and implement an internal cross-connection control program.
- b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Epifanio Villarreal, Enforcement Division, Enforcement Team 2, MC R-14, (361) 825-3425; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: The Honorable Kristen Miller, Mayor, City of Whitney, P.O. Box 2050, Whitney, Texas 76692

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	31-May-2011	Screening	2-Jun-2011	EPA Due	
	PCW	2-Jun-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Whitney	
Reg. Ent. Ref. No.	RN102688934	
Facility/Site Region	9-Waco	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	41746	No. of Violations	10
Docket No.	2011-0856-PWS-E	Order Type	1660
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Epifanio Villarreal
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,560

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **5.0%** Enhancement **Subtotals 2, 3, & 7** \$128

Notes Enhancement for one NOV with same/similar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$237

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$308
Approx. Cost of Compliance \$2,334
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,451

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,451

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,500

DEFERRAL **20.0%** Reduction **Adjustment** -\$500

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,000

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 2-Jun-2011
Respondent City of Whitney
Case ID No. 41746
Reg. Ent. Reference No. RN102688934
Media [Statute] Public Water Supply
Enf. Coordinator Epifanio Villarreal
Violation Number 1

Docket No. 2011-0856-PWS-E

PCW

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(F)(i)

Violation Description

Failed to collect and submit raw water samples for microbiological analysis prior to placing existing wells that were reworked back into service. Specifically, at the time of the investigation, it was documented that the Main Well and the North Well were taken out of service for pump and motor maintenance from February 9, 2011 to March 2, 2011 and from November 9, 2010 to December 6, 2010, respectively and raw water samples for analysis were not collected after the rework of the wells were completed.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to collect raw water samples for microbiological analysis prior to placing a reworked well back into service may not ensure the source water is free from a significant amount of undetected coliform organisms which would exceed levels protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

2 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

Two single events are recommended (one event per well where microbiological samples were not collected).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Ordinary

N/A

Notes

Before NOV NOV to EDPRP/Settlement Offer

x (mark with x)

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$159

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent City of Whitney
Case ID No. 41746
Reg. Ent. Reference No. RN102688934
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	28-Apr-2011	12-May-2011	0.04	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a protocol to ensure all necessary samples are provided when an existing well has been reworked and returned to service. The date required is the investigation date. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

AVOIDED COSTS							
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$150	7-Dec-2010	3-Mar-2011	1.15	\$9	\$150	\$159

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect a total of six daily raw water samples (\$25 per sample), calculated for the months in which samples were required to be collected.

Approx. Cost of Compliance

\$250

TOTAL

\$159

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 290.110(c)(4)(B)

Violation Description

Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day. Specifically, a review of the disinfectant residual monitoring logs for the month of March 2011 revealed that monitoring was not being conducted on the weekends.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to monitor the disinfectant residual at least once per day could expose customers of the water supply to a significant amount of bacteriological contamination which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the investigation, April 28, 2011, to the date of compliance, May 12, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$25

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance on May 12, 2011.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$80

This violation Final Assessed Penalty (adjusted for limits) \$80

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 2

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)	\$30	28-Apr-2011 12-May-2011	0.00	\$0	\$30	\$30

Notes for AVOIDED costs

The avoided costs include the estimated amount to perform daily monitoring of the disinfectant residual throughout the system (\$10 per week), calculated from the investigation to the date of compliance.

Approx. Cost of Compliance

\$30

TOTAL

\$30

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 290.41(c)(3)(N)

Violation Description

Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data. Specifically, at the time investigation, it was documented that the well meter for the Railroad well did not meet American Water Works Association standards and did not accurately measure production yields.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to provide an accurate flow measuring device for the well could lead to incorrect water usage calculations and prevent the operator from obtaining accurate well production data and determining proper amounts of disinfection of raw water, thereby exposing consumers to a significant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

35 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$100

One quarterly event is recommended, calculated from the date of the investigation, April 28, 2011, to the date of screening, June 2, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$16

Violation Final Penalty Total \$105

This violation Final Assessed Penalty (adjusted for limits) \$105

Economic Benefit Worksheet

Respondent City of Whitney
Case ID No. 41746
Reg. Ent. Reference No. RN102688934
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$300	28-Apr-2011	1-Feb-2012	0.76	\$1	\$15	\$16
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to install a new well meter, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$300

TOTAL

\$16

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 290.46(f)(2) and 290.46(f)(3)(B)(vi)

Violation Description

Failed to maintain copies of Facility records that are kept on file or stored electronically and made accessible for review during inspections. Specifically, at the time of the investigation, it was noted that the Respondent failed to provide the following requested records: backflow prevention assembly test report for the device located at the wastewater treatment plant and at Dr. Cofer Dental Clinic at 1502 North Brazos Street in Whitney.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$990

\$10

Violation Events

Number of Violation Events 1

14 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$10

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$11

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$45	28-Apr-2011	12-May-2011	0.04	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$45	28-Apr-2011	1-Feb-2012	0.76	\$2	n/a	\$2

Notes for DELAYED costs

The delayed cost includes the estimated amount to develop a record-keeping system for the backflow prevention assembly test report for the wastewater treatment plant, calculated from the date of the investigation to the date of compliance. The delayed cost includes the estimated amount to develop a record-keeping system for the backflow prevention assembly test report for Dr. Cofer's Dental Clinic, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$90

TOTAL

\$2

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 5

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(4)

Violation Description

Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications. Specifically, at the time of the investigation, it was documented that the reduced-pressure principle backflow prevention assembly ("RPBA") installed at the U Wash Car Wash at 1315 North Brazos Street was last tested on October 23, 2009 and the RPBA installed at the Lake Whitney Medical Center at 200 North San Jacinto Street was last tested on October 23, 2009.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to test backflow prevention assemblies on an annual basis would not ensure the device is operating properly which could result in a reverse flow of a significant amount of contaminants enter into the water mains which could exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

365 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$500

Two annual events are recommended (one event for each location that was not tested).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	----------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)	\$62	28-Apr-2010	28-Apr-2011	1.92	\$6	\$62	\$68

Notes for AVOIDED costs

The avoided cost includes the estimated amount to test the U Wash Car Wash and the Lake Whitney Medical Center backflow prevention assemblies, calculated for the 12 month period preceding the date of the investigation.

Approx. Cost of Compliance

\$62

TOTAL

\$68

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 6

Rule Cite(s)

30 Tex. Admin. Code § 290.44(h)(1)(A) and (h)(1)(B)

Violation Description

Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists and failed to implement an internal cross-connection control program. Specifically, at the time of the investigation, it was documented that there was not a backflow prevention assembly or an air gap installed at Whitney Veterinary Clinic at 102 South Bosque Street. Additionally, it was also noted that there is not an internal cross-connection control program in effect for the Facility.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failing to provide a backflow prevention assembly or air gap and having an internal cross-connection program at connections where an actual or potential hazard exists may allow backflow and siphonage to occur; thereby exposing customers to significant amounts of contamination which could exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

36 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended from the date of the investigation, April 28, 2011, to the date of screening, June 2, 2011.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$31

Violation Final Penalty Total \$525

This violation Final Assessed Penalty (adjusted for limits) \$525

Economic Benefit Worksheet

Respondent City of Whitney
Case ID No. 41746
Reg. Ent. Reference No. RN102688934
Media Public Water Supply
Violation No. 6

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$577	28-Apr-2011	1-Feb-2012	0.76	\$1	\$29	\$31
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to install a backflow prevention assembly or air gap at the Whitney Veterinary Clinic and having an adequate internal cross-connection control program in effect, calculated from the date of the investigation to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$577

TOTAL

\$31

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 7

Rule Cite(s)

30 Tex. Admin. Code § 290.46(t)

Violation Description

Failed to post a legible sign at the Facility's production, treatment and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted. Specifically, at the time of the investigation, it was noted that the Railroad well site did not have a sign posted that provided the name of the water supply and an emergency telephone number where a responsible official can be contacted.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 10%

Matrix Notes

More than 70% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

1

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$25

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance on May 12, 2011.

Violation Subtotal \$75

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$80

This violation Final Assessed Penalty (adjusted for limits) \$80

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 7

Percent Interest 5.0
 Years of Depreciation 15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	28-Apr-2011	12-May-2011	0.04	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide the name of the water supply and an emergency telephone number on the sign posted at the Railroad well site, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$0

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 8

Rule Cite(s)

30 Tex. Admin. Code § 290.42(e)(4)(A)

Violation Description

Failed to provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide a bottle of fresh ammonia solution for testing for chlorine leakage may not allow the operator to detect and locate small leaks in the chlorination facilities. As a result, the chlorination room could be exposed to an insignificant amount of contaminants which would not exceed levels protective of human health.

Adjustment \$950

\$50

Violation Events

1

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$12

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
		x	
N/A			(mark with x)

Notes The Respondent achieved compliance on May 12, 2011.

Violation Subtotal \$38

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$41

This violation Final Assessed Penalty (adjusted for limits) \$50

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 8

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$25	28-Apr-2011	12-May-2011	0.04	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to provide a bottle of fresh ammonia solution, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$25

TOTAL

\$0

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 9

Rule Cite(s)

30 Tex. Admin. Code § 290.42(e)(4)(C)

Violation Description

Failed to provide adequate ventilation which includes high level and floor level screened vents for all enclosures in which chlorine gas is being stored or fed. Specifically, at the time of the investigation, it was documented that the chlorine enclosures at the North Plant and the Main Plant did not have high level vents.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failing to provide adequate ventilation could expose employees of the Facility to significant amounts of chlorine gas that would exceed levels that are protective of human health.

Adjustment \$750

\$250

Violation Events

Number of Violation Events 2

14 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$500

Two monthly events are recommended from the date of the investigation, April 28, 2011, to the date of compliance, May 12, 2011.

Good Faith Efforts to Comply

25.0% Reduction

\$125

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance on May 12, 2011.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$400

This violation Final Assessed Penalty (adjusted for limits) \$400

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 9

Percent Interest 5.0
 Years of Depreciation 15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
 Item Description No commas or \$

Delayed Costs

Equipment	\$500	28-Apr-2011	12-May-2011	0.04	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to install a high level vent at the North and Main Plants, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$1

Screening Date 2-Jun-2011

Docket No. 2011-0856-PWS-E

PCW

Respondent City of Whitney

Policy Revision 2 (September 2002)

Case ID No. 41746

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102688934

Media [Statute] Public Water Supply

Enf. Coordinator Epifanio Villarreal

Violation Number 10

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(4)

Violation Description

Failed to provide all water storage tanks with a water level indicator located at the tank site. Specifically, at the time of the investigation, it was documented that the pressure gauge on the elevated tank at the North Plant was not functioning. Additionally, there was not a water level indicator for the ground storage tank at the North Plant.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to provide the storage tanks with properly working water level indicators could prevent the water operator from making necessary water usage calculations and adjustments and could expose customers to a significant amount of contaminants which would not not exceed levels protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 2

35 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$200

Two single events are recommended (one event per tank).

Good Faith Efforts to Comply

25.0% Reduction

\$50

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance on May 12, 2011.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$160

This violation Final Assessed Penalty (adjusted for limits) \$160

Economic Benefit Worksheet

Respondent City of Whitney
 Case ID No. 41746
 Reg. Ent. Reference No. RN102688934
 Media Public Water Supply
 Violation No. 10

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$400	28-Apr-2011	12-May-2011	0.04	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed cost includes the estimated amount to equip the elevated tank and ground storage tank at the North Plant with operational water level indicators, calculated from the date of the investigation to the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$1

Compliance History

Customer/Respondent/Owner-Operator: CN601048119 City of Whitney Classification: AVERAGE Rating: 3.11
Regulated Entity: RN102688934 CITY OF WHITNEY Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1090006
WATER LICENSING LICENSE 1090006

Location: 105 CLEVELAND AVENUE, WHITNEY, HILL COUNTY, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: June 02, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 02, 2006 to June 02, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Epi Villarreal Phone: (361) 825-3425

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 1. 07/06/2007 (558815)
 2. 08/07/2007 (571356)
 3. 10/09/2007 (596701)
 4. 01/09/2008 (612972)
 5. 05/23/2011 (913011)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/06/2007

(558815) CN601048119

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)		
Description:	Failure to install backflow prevention assemblies or an air gap at all residences or establishments where an actual or potential contamination hazard exists.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(D)(iii)		
Description:	Failure to provide two or more service pumps at each pump station or pressure plane.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.44(h)(4)		
Description:	Failure to test at least annually all backflow prevention assemblies which are installed to provide protection against health hazards.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)(2)		
Description:	Failure to provide water system records that needed to be reviewed at the time of the investigation.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(n)(2)		
Description:	Failure to provide an up-to-date distribution system map.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter F 290.109(c)(1)(B)		
Description:	Failure to collect samples for bacteriological analysis according to the system's monitoring plan.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.38(25)		
	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(O)		
Description:	Failure to provide an intruder-resistant fence to protect the well.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.41(c)(3)(K)		
Description:	Failure to screen the well casing vent.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to equip the below ground storage tank with a water level indicator.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.38(25)		
	30 TAC Chapter 290, SubChapter D 290.43(e)		
Description:	Failure to provide an intruder-resistant fence to protect the below ground storage tank.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF WHITNEY
RN102688934**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-0856-PWS-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Whitney ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal public water supply at 105 Cleveland Avenue, Whitney, Hill County, Texas (the "Facility") that has approximately 965 service connections and serves at least 25 people per day for at least 60 days per year.
2. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
3. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 24, 2011.
4. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
5. An administrative penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Two Thousand Dollars (\$2,000) of the administrative penalty and Five Hundred Dollars (\$500) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order.

The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

6. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
7. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
8. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility as of May 12, 2011:
 - a. Provided the Facility's chlorine residual monitoring log for the month of April 2011 that showed the disinfectant residual was being monitored at representative locations in the distribution system at least once per day;
 - b. Provided the backflow prevention assembly test report for the device located at the wastewater treatment plant;
 - c. Posted a legible sign at the Facility's Railroad well site that contains the name of the water supply and emergency telephone numbers where a responsible official can be contacted;
 - d. Installed high level vents for the chlorine enclosures at the North Plant and the Main Plant;
 - e. Provided a small bottle of fresh ammonia solution that is readily accessible outside the chlorinator room;
 - f. Installed a water level indicator for the elevated tank and ground storage tank at the North Plant; and
 - g. Implement a protocol to ensure that all necessary raw water samples are collected and submitted prior to placing a reworked well back into service.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to collect and submit raw water samples for microbiological analysis prior to placing existing wells that were reworked back into service, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(F)(i), as documented during an investigation conducted on April 28, 2011.
2. Failed to monitor the disinfectant residual at representative locations throughout the distribution system at least once per day, in violation of 30 TEX. ADMIN. CODE § 290.110(c)(4)(B), as documented during an investigation conducted on April 28, 2011.
3. Failed to provide a flow measuring device for each well to measure production yields and provide for the accumulation of water production data, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(3)(N), as documented during an investigation conducted on April 28, 2011.
4. Failed to maintain copies of Facility records that are kept on file or stored electronically and made accessible for review during inspections, in violation of 30 TEX. ADMIN. CODE §§ 290.46(f)(2) and 290.46(f)(3)(B)(vi), as documented during an investigation conducted on April 28, 2011.
5. Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4), as documented during an investigation conducted on April 28, 2011.
6. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists and failed to implement an internal cross-connection control program, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A) and (h)(1)(B), as documented during an investigation conducted on April 28, 2011.
7. Failed to post a legible sign at the Facility's production, treatment and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during an investigation conducted on April 28, 2011.
8. Failed to provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(A), as documented during a record review conducted on April 28, 2011.
9. Failed to provide adequate ventilation which includes high level and floor level screened vents for all enclosures in which chlorine gas is being stored or fed, in violation of 30

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4. Failed to maintain copies of Facility records that are kept on file or stored electronically and made accessible for review during inspections, in violation of 30 TEX. ADMIN. CODE § 290.46(f)(2) and 290.46(f)(3)(B)(vi), as documented during an investigation conducted on April 28, 2011.
5. Failed to test all backflow prevention assemblies on an annual basis by a recognized backflow assembly tester and certify that they are operating within specifications, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(4), as documented during an investigation conducted on April 28, 2011.
6. Failed to ensure that a backflow prevention assembly or an air gap is installed at all residences and establishments where an actual or potential contamination hazard exists and failed to implement an internal cross-connection control program, in violation of 30 TEX. ADMIN. CODE § 290.44(h)(1)(A) and (h)(1)(B), as documented during an investigation conducted on April 28, 2011.
7. Failed to post a legible sign at the Facility's production, treatment and storage facilities that contains the name of the Facility and emergency telephone numbers where a responsible official can be contacted, in violation of 30 TEX. ADMIN. CODE § 290.46(t), as documented during an investigation conducted on April 28, 2011.
8. Failed to provide a small bottle of fresh ammonia solution (or approved equal) for testing for chlorine leakage that is readily accessible outside the chlorinator room and immediately available to the operator in the event of an emergency, in violation of 30 TEX. ADMIN. CODE § 290.42(e)(4)(A), as documented during a record review conducted on April 28, 2011.
9. Failed to provide adequate ventilation which includes high level and floor level screened vents for all enclosures in which chlorine gas is being stored or fed, in violation of 30

TEX. ADMIN. CODE § 290.42(e)(4)(C), as documented during an investigation conducted on April 28, 2011.

10. Failed to provide all water storage tanks with a water level indicator located at the tank site, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(4), as documented during an investigation conducted on April 28, 2011.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 5 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Whitney, Docket No. 2011-0856-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Provide an accurate flow measuring device for the Facility's Railroad well, in accordance with 30 TEX. ADMIN. CODE § 290.41;
 - ii. Provide the backflow prevention assembly test report for the device located at Dr. Cofer Dental Clinic located at 1502 North Brazos Street in Whitney, in accordance with 30 TEX. ADMIN. CODE § 290.46;
 - iii. Test the backflow prevention assembly device at the U Wash Car Wash and Lake Whitney Medical Center by a recognized backflow assembly tester and certify that the assemblies are operating within specifications, in accordance with 30 TEX. ADMIN. CODE § 290.44; and
 - iv. Install a reduced pressure principle backflow prevention assembly or an air gap at the Whitney Veterinary Clinic and implement an internal cross-

connection control program, in accordance with 30 TEX. ADMIN. CODE § 290.44;

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

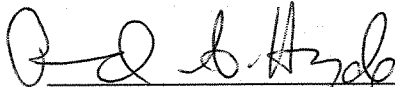
Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/22/11

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

7-29-11

Date

Kristen Miller

Name (Printed or typed)
Authorized Representative of
City of Whitney

Mayor

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.